



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location – Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – MARCH 22, 2005

¹ Sign Language Interpreter would have been provided for Board Meeting upon request – contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

² Pursuant to Government Code section 11123, a teleconference location may have been conducted for this meeting at 320 West 4th Street, Los Angeles, California.

MID-MONTH BOARD MEETING MINUTES³

MARCH 22, 2005

1. ROLL CALL

Members Present:

William Elkins, President
Maeley Tom, Vice President
Anne Sheehan, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura

A. There was a short reception for new SPB employees immediately following the meeting.

B. We received an informal opinion from the Attorney General's Office that CPS may not buy a computer software company by acquiring all its stock and then dissolving it. The State Constitution prohibits the State or its subdivision from acquiring stock.

C. AB 124, which conforms the SPB's equal employment opportunity statute to Proposition 209, was successfully reported out of the first Assembly policy committee last week.

3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

NONE

4. REPORT OF THE CHIEF COUNSEL - Elise Rose

Litigation:

Sulier v. Dept. of Corrections – California Supreme Court denied petition for review. Issue now is whether the interpretation of the law set forth in the published Court of Appeal decision is to be applied retroactively.

Other:

Received correspondence from whistleblower Paul Satkowski. Correspondence as well as request to file charges complaint have been provided to the Board members for their information.

³ The Agenda for the Board can be obtained at the following internet address: <http://www.spb.ca.gov/calendar.htm>

Sacramento Bee published column on the whistleblower complaint process, SB 165 and Cornejo and Dille whistleblower appeal, now in mid-hearing before Judge Cloughesy.

Chief Counsel and Executive Officer testified in support of AB 124 before Assembly PERS Committee.

5. NEW BUSINESS

NONE

6. REPORT ON LEGISLATION - Sherry Hicks

AB 124 (DYMALLY)

An update of AB 124 (Dymally), which would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in *Connerly v. State Personnel Board*, and re-title Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from “Affirmative Action Program” to “State Equal Employment Opportunity Program” was given. In addition, it would strengthen equal employment opportunity requirements. This bill was passed out of the Assembly Public Employees Retirement and Social Security Committee on to the Assembly Appropriations Committee.

AB 297 (YEE)

An update of AB 297 (Yee), which would specify that a current patient of a facility operated by the state Department of Mental Health (DMH) cannot file charges against a state employee, but rather must use the grievance processes of the DMH was given. The bill is currently in the Assembly Public Employees Retirement and Social Security Committee.

7. DELIBERATION ON ADVERSE ACTION, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the state Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

11. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF APRIL 5-6, 2005, IN LOS ANGELES, CALIFORNIA

The Board will be meeting at the California Science Center.

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES

The Minutes for January 25, 2005 were adopted

VOTE: Elkins, Harrigan, Tom, Sheehan - Aye

13. EVIDENTIARY CASES - (See Case Listing on pages 9-16)

The Board Administrative Law Judges conducted evidentiary hearings in appeals that include, but were not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

14. NON-EVIDENTIARY CASES - (See Case Listing on pages 16-24)

15. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It was anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

NONE

16. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

17. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and

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it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

NONE

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

CHIEF COUNSEL

The Department of General Service's request to allocate the above position to the CEA category has been approved effective February 14, 2005.

CHIEF COUNSEL

The Department of Mental Health's request to allocate the above position to the CEA category has been approved effective February 15, 2005.

ACTION: Noted

18. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

19. WRITTEN STAFF REPORT FOR BOARD INFORMATION

20. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

21. BOARD ACTIONS - (See Agenda – Pages 8 - 9)

These items were taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

22. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Agenda Page 27)

A D J O U R N M E N T

SUBMITTED

TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

No Action

VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

No Action

TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

No Action

HEARING - PSC #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

No Action

HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

No Action

HEARING - PSC #04-04

Appeal of the Secretary of State from the Executive Officer's October 15, 2004 disapproval of SOS's contract with Renne & Holtzman Public Law Group upon the review request submitted by the California Attorneys, Administrative Law Judge (Hearing held on March 9, 2005.)

No Action

HEARING - PSC #04-05

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment from the Executive Officer's November 17, 2004 Approval of a Contract between California Department of Education and McGeorge School of Law.

Action: The Board sustained the Executive Officer's November 17, 2004 decision approving the Contract under Government Code section 19130, subdivision (b)(10).

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13. EVIDENTIARY CASES

The Board Administrative Law Judges conducted evidentiary hearings in appeals that include, but were not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items were taken under submission by the State Personnel Board at a prior meeting. Cases that were before the Board for vote were provided under separate cover.

On March 22, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

- (1) **JOHN A. CRUZ, CASE NO. 04-1376A**
Appeal from 60-calendar-days suspension
CLASSIFICATION: Automotive Equipment Operator I
DEPARTMENT: California Department of Veterans Affairs
ACTION: Submitted
- (2) **NESSLIN CRUZ, CASE NO. 03-1854A**
Appeal from ten-work-days suspension
CLASSIFICATION: Employment Program
Representative (Permanent/Intermittent)
DEPARTMENT: Employment Development Department
ACTION: Submitted
- (3) **HAJI JAMEEL, CASE NO. 04-0330A**
Appeal from dismissal
CLASSIFICATION: Supervising Transportation Engineer
DEPARTMENT: California Public Utilities Commission
ACTION: Submitted
- (4) **JOE W. JORDAN, CASE NO. 04-0393A**
Appeal from dismissal
CLASSIFICATION: Youth Correctional Counselor
DEPARTMENT: Department of Youth Authority
ACTION: Submitted

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- (5) **SAMUEL SWEENEY, CASE NO. 04-0794A**
Appeal from 20-calendar-days suspension
Correctional Officer
CLASSIFICATION: California Institution for Men -
Chico
DEPARTMENT: Department of Corrections
ACTION: Submitted

B. CASES PENDING

ORAL ARGUMENTS

These cases were on calendar to be argued at this meeting or were considered by the Board in closed session based on written arguments submitted by the parties.

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

These cases would have been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On March 22, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

- (1) **BRENT ADAMS, CASE NO. 02-0083**
Appeal from dismissal
CLASSIFICATION: Officer
DEPARTMENT: Department of Highway Patrol
ACTION: The Board adopted the ALJ's proposed decision revoking the dismissal.
- (2) **JOHN BERNATH, CASE NO. 03-3357**
Appeal from dismissal
CLASSIFICATION: Caltrans Heavy Equipment Mechanic
DEPARTMENT: Department of Transportation
ACTION: The Board adopted the ALJ's proposed decision sustaining the dismissal.
- (3) **LANA DAVIS, CASE NO. 03-2372R**
Appeal from determination of back salary, benefits, and interest.
CLASSIFICATION: Licensing Representative I
DEPARTMENT: Department of Alcohol and Beverage Control
ACTION: The Board adopted the ALJ's proposed decision denying back salary, benefits, and interest.
- (4) **JUDITH GAUTHREAUX, CASE NO. 03-3453E**
Appeal from discrimination complaint
CLASSIFICATION: Associate Information Systems Analyst
DEPARTMENT: Department of Fish and Game
ACTION: The Board adopted the ALJ's proposed decision dismissing the discrimination complaint for failure to establish a prima facie case and for failure of proof.
- (5) **STEVEN JACKSON, CASE NO. 04-1683**
Appeal from ten percent reduction in salary for 12 months
CLASSIFICATION: Parole Agent I, Adult Parole
DEPARTMENT: Department of Corrections
ACTION: The Board adopted the ALJ's decision sustaining the ten percent reduction in salary for 12 months on March 8-9, 2005 Board.
- (6) **ANGEL JUAREZ, CASE NO. 04-2323**
Appeal from 30 working days suspension
CLASSIFICATION: Officer, California Highway Patrol
DEPARTMENT: California Highway Patrol
ACTION: The Board adopted the ALJ's decision sustaining the 30 working days suspension.

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- (7) **HUGO D. LANDEROS, CASE NO. 03-3190AR**
Appeal from dismissal
CLASSIFICATION: Employment Program Representative
DEPARTMENT: Department of Employment Development
ACTION: The Board adopted the ALJ's proposed decision sustaining the dismissal.
- (8) **ELAINE SIMMONE, CASE NO. 02-4258E**
Appeal from denial of discrimination and retaliation complaint
CLASSIFICATION: Associate Management Analyst
DEPARTMENT: State of California Public utilities commission
ACTION: The Board adopted the ALJ's proposed decision denying the appeal of discrimination and retaliation.
- (9) **SHAHLA O'SULLIVAN, CASE NO. 04-0442**
Appeal from ten percent reduction in salary for 12 months
CLASSIFICATION: Registered Nurse
DEPARTMENT: Department of Mental Health
ACTION: The Board adopted the ALJ's proposed decision sustaining the ten percent reduction in salary for 12 months.
- (10) **OLGA TORRES, CASE NO. 04-1518**
Appeal from nine percent reduction in salary for fifteen months
CLASSIFICATION: Hydroelectric Plant Operator
DEPARTMENT: Department of Water Resources
ACTION: The Board adopted the ALJ's proposed decision sustaining the nine percent reduction in salary for fifteen months.
- (11) **MARY WHISNER, CASE NO. 04-2127**
Appeal from formal reprimand
CLASSIFICATION: Correctional Sergeant
DEPARTMENT: Department of Corrections
ACTION: The Board adopted the ALJ's proposed decision revoking the formal reprimand.

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- (12) VALERIE KEISLER, CASE NO. 04-0015
HOWARD SACKS, CASE NO. 04-0064
RICHARD STEUBER, CASE NO. 04-0065
LEIA RILEY, CASE NO. 04-0066
NANCY VIERRA, CASE NO. 04-0067
SUSAN DYCKES, CASE NO. 04-0071
TIMOTHY BENNETT, CASE NO. 04-0072
BABAK (BOBBY) KHAGHANI, CASE NO. 04-0073
NICHOLAS CIMINO, CASE NO. 04-0074
DOUGLAS CRANDY, CASE NO. 04-0076
Appeal from demotion
CLASSIFICATION: Career Management Assignments III, IV, V
DEPARTMENT: Department of General Services
ACTION: The Board adopted the ALJ's proposed decision dismissing the consolidated appeals from demotion for lack of SPB jurisdiction.

Proposed Decisions Taken Under Submission At Prior Meeting

These were ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

NONE

WHISTLEBLOWER NOTICE OF FINDINGS

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

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On March 22, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

(1) **ANNA WONG, CASE NOS: 04-1490P, 04-1490PA, 04-1490PD**

Appeal of Whistleblower Notice of Findings

CLASSIFICATION: Public Health Microbiologist II

DEPARTMENT: Department of Health Services

ACTION: The Board granted the petitions for rehearing.

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On March 22, 2005, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

(1) **JACOB ARIS, CASE NO. 04-1378E AND
NICHOLAS RUTHART, CASE NO. 04-1409E**

Appeal from discrimination complaint

CLASSIFICATION: Employment Program Representatives

DEPARTMENT: Employment Development Department

Proposed decision rejected January 25, 2005

Transcripts ordered

No Action

(2) **PATRICK BARBER, CASE NO. 04-0279**

Appeal from dismissal

CLASSIFICATION: Youth Correctional Counselor

DEPARTMENT: Department of the Youth Authority

Proposed decision adopted November 3, 2004

Modifying dismissal to 45-calendar day suspension

Petition for Rehearing granted February 8-9, 2005

Transcripts ordered

No Action

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- (3) **DAVID BARTON, SPB CASE NO. 04-1434**
Appeal from dismissal
CLASSIFICATION: Associate Hazardous Materials Specialist
Wasco State Prison - Wasco
DEPARTMENT: Department of Corrections
- Proposed decision rejected January 11, 2005
Transcripts received
- Pending oral argument May 3-4 2005, Sacramento
No Action
- (4) **ERNEST J. DURAN, CASE NO. 04-0853**
Appeal from demotion
CLASSIFICATION: Special Agent in Charge
DEPARTMENT: Department of Justice
- Proposed decision rejected January 11, 2005
Transcripts prepared
- Pending oral argument April 5-6, 2005, Los Angeles
No Action
- (5) **CHAD LOOK, CASE NO. 04-1789**
Appeal from 60-work-days suspension
CLASSIFICATION: Correctional Officer
Wasco State Prison – Wasco
DEPARTMENT: Department of Corrections
- Proposed decision rejected January 11, 2005
Transcripts received
- Pending oral argument May 3-4, 2005, Sacramento
No Action
- (6) **KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E**
Appeal from denial of reasonable accommodation
and from constructive medical termination
CLASSIFICATION: Office Technician (General)
DEPARTMENT: Department of Fish and Game
- Proposed decision rejected May 18, 2004
- Pending transcripts
No Action

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- (7) **DARYL STONE, CASE NO. 04-0279**
Appeal from dismissal
CLASSIFICATION: Peace Officer I
DEPARTMENT: Department of Developmental Services

Proposed decision rejected on February 8, 2005

Transcripts ordered
No Action

- (8) **ANTHONY VEGAS, Case No. 03-2204A**
Appeal from dismissal
CLASSIFICATION: Parole Agent I (Adult Parole)
DEPARTMENT: Department of Corrections – Stockton

Proposed decision rejected November 3, 2004
Transcripts prepared

Pending oral argument April 5-6, 2005, Los Angeles
No Action

14. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION CASES NOT HEARD BY A STAFF HEARING OFFICER

On March 22, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

- (1) **ANTONIO AVERY, CASE NO. 04-1450**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (2) **GEORGE BREWER, SR., CASE NO. 04-0125**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnishing inaccurate information, omitting pertinent information during the selection process, and arrest/conviction record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (3) **WYMAN CHAN, CASE NO. 04-0784**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information during the selection process.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (4) **RICHAYE CINADER, CASE NO. 04-0473**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information, omitted pertinent information during the selection process, and negative employment record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (5) **SCOTT COX, CASE NO. 04-0485**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant was terminated from employment as a police officer within three years from participating in the examination process.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.

- (6) **TERY DALE, CASE NO. 04-0769**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (7) **GILBERT FERNANDEZ, CASE NO. 04-1312**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant is legally prohibited from carrying a firearm.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (8) **JAMES FREDIEU, CASE NO. 04-0037**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative employment record, furnished inaccurate information during selection process, and omitted pertinent information during selection process.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (9) **TINA GARDNER, CASE NO. 04-0857**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnishing inaccurate information and failure to comply with legal obligations.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (10) **TONY GRAGGS, CASE NO. 04-1408**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative employment and omitting pertinent information.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.

- (11) **MARIE GRAY, CASE NO. 04-1066**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative military record and failure to comply with legal obligations.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (12) **DAVID GUZMAN, CASE NO. 04-0482**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant is not suitable for employment as a peace officer due to suitability issues.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (13) **UMA HAMILTON, CASE NO. 04-1648**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and a negative employment record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (14) **DOUGLAS HAUSMAN, CASE NO. 04-1248**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; failure to comply with legal obligations and negative employment record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (15) **MARIE JOHNSON, CASE NO. 04-0546**
Classification: Medical Technical Assistant - CF
Department: Corrections
Issue: Suitability; failed to supply CDC information or documents required to complete his background investigation.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (16) **TUESDIA JOHNSON, CASE NO. 04-1742**
Classification: Medical Technical Assistant
Department: Corrections
Issue: Suitability and omitting pertinent information.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.

- (17) **SYBIL JONES, CASE NO. 04-1013**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (18) **STANDISH KNOWLTON, CASE NO. 04-1249**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information, omitted pertinent information during the selection process, has a negative employment record, and failed to comply with legal obligations.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (19) **MICHAEL LEANOS, CASE NO. 04-0408**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information during the selection process and his negative employment record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (20) **CHRISTOPHER LYON, CASE NO. 04-1245**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information during the selection process, and failed to comply with legal obligations.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (21) **ANTONIO MANQUERO, CASE NO. 04-0772**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information and an arrest/conviction record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.

- (22) **ERIC MARSHALL, CASE NO. 04-1752**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant is legally prohibited from carrying a firearm.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (23) **RONALD MARTINEZ, CASE NO. 04-1751**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information during selection process, omitted pertinent information, and failed to comply with legal obligations.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (24) **SEAN NELSON, CASE NO. 04-0476**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant is not suitable for employment as peace officer due to negative law enforcement contacts.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (25) **VICTOR PALACIOS, CASE NO. 04-0436**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnished inaccurate information and omitted pertinent information during the selection process.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (26) **DANIEL ROMERO, CASE NO. 04-0805**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant furnished inaccurate information about his negative law enforcement contacts during the selection process.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.

- (27) **OSMOND SWANEGAN, CASE NO. 04-0423**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; omitted pertinent information, furnished inaccurate information during the selection process, negative law enforcement contacts, and drug use.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (28) **KRISTEN URSUA, CASE NO. 04-0987**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; negative law enforcement contact.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (29) **JUAN VILLALOBOS, CASE NO. 04-0116**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant was eliminated from the examination because he did not appear for the Physical Ability Test.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (30) **CHRISTINA VILLAVAZO, CASE NO. 04-0988**
Classification: Correctional Officer
Department: Corrections
Issue: The appellant is not suitable for employment as peace officer.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (31) **ORVIS WADE, CASE NO. 04-1022**
Classification: Hospital Police Officer
Department: Mental Health
Issue: Suitability; negative employment and negative law enforcement contacts.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.
- (32) **RAQUEL WELSH, CASE NO. 04-0396**
Classification: Correctional Officer
Department: Corrections
Issue: Suitability; furnishing inaccurate information, omitting pertinent information during the selection process, and negative driving record.
ACTION: The Board adopted the Staff's recommended decision denying the appeal.

March 22, 2005

(33) KRYSTIN WILSON, CASE NO. 04-1991

Classification: Correctional Officer

Department: Corrections

Issue: Suitability and a negative employment record.

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

EXAMINATION APPEALS

NONE

MINIMUM QUALIFICATIONS

NONE

MERIT ISSUE COMPLAINTS

On March 22, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

(1) EDNA GRIFFIN, CASE NO. 03-0971

Classification: Communicable Disease Representative (CDR)

Department: Health Services

Issue: Did the department circumvent the civil service law and rules by denying the appellant a transfer to the CDR class?

ACTION: The Board adopted the Staff's recommended decision denying the appeal.

March 22, 2005

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On March 22, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

(1) MAY CHEN, CASE NO. 04-2911

Classification: N/A, Member of the Public

Department: Corporations

Issue: Alleged misconduct of Steven C. Thompson, an employee of the Department of Corporations.

ACTION: The Board adopted the Staff's recommended decision denying the charging party's request.

PETITIONS FOR REHEARING CASES

On March 22, 2005, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Harrigan, Sheehan - Aye

(2) CLEOPHEUS DAVIS, CASE NO. 03-2700

Classification: Special Agent, DOJ

Department: Department of Justice

Issues: The Department of Justice (DOJ) states tha the State Personnel Board (SPB) erred in its issuance of an order that compels DOJ to hire Davis. Additionally, DOJ states that SPB denied them due process when the hearing was started before the scheduled time.

ACTION: The Board adopted the Staff's recommended decision granting the department a new hearing.

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It was anticipated that the Board will act on these proposals without a hearing.

NONE

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on March 22, 2005.

VOTE: Tom, Sheehan, Harrigan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive, flowing style with a long horizontal line extending from the end.

FLOYD D. SHIMOMURA
Executive Officer
California State Personnel Board